IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8062 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

G S R T CORPORATION

Versus

ANIRUDDHSINH JUVANSINH ZALA

Appearance:

1. Special Civil Application No. 8062 of 1994

MRS VASAVDATTA BHATT for Petitioner No. 1

MR SN SHELAT for Petitioner No. 1

MR MUKESH H RATHOD for Respondent No. 1

(MR ANANT S DAVE) for Respondent No. 1

MR. S.P.HASURKAR, AGP for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 18/10/2004

ORAL JUDGEMENT

By this petition under Article 227 of the Constitution the Petitioner-Gujarat State Road Transport Corporation (GSRTC) has challenged the order dated 21.01.1994 of the Assistant Commissioner of Labour in Misc. Application No. IDC/MC 57 of 1993 whereby the approval application made by the petitioner under Section 33(2)(b) of the Industrial Disputes Act was rejected. It appears from the impugned order that the petitioner had submitted the application for approval of the punitive action taken after a departmental enquiry into the charges of misappropriation and serious misconduct alleged to have been committed by the Respondent No.1workman.

2. There was limited consensus between the learned counsel for the petitioner and the Respondent No.1 that even after adverting to the principles required to be borne in mind while deciding an application for approval, the authority at Respondent No.2 had, after reappreciating the evidence lead during the inquiry, arrived at conclusions which were not sustainable. The conclusions not only appeared to be perverse but biased and influenced in favour of the workman expressly on account of his having been awarded medals for an act of exemplary valour during the discharge of his duties. It was therefore apparent that the impugned order was based on extraneous consideration and clearly inconsistent with the principles laid down by the Supreme Court in Lalla Ram v. Management of D.C.M. Chemical Works Ltd. and another (AIR-1978 SC 1004). The learned AGP appearing for the Respondent No.2 - authority, however, tried to defend the order by submitting that the impugned order was made in exercise of the jurisdiction vested in the authority.

3. In view of the limited jurisdiction of this Court and in view of the limited consensus recorded hereinabove, the appropriate course as suggested by the learned counsel was to remand the matter for reconsideration by the same authority for making a fresh order in accordance with law. The learned counsel also requested that no opinion may be expressed as far as the proof of alleged misconduct of the workman and the observance of principles of natural justice during the course of the enquiry were concerned.

4. Accordingly, the petition is allowed, the impugned order dated 21.01.1994 of the Assistant Commissioner of Labour in Misc. Application No. IDC/MC 57 of 1993 is set aside and the matter is remanded to the appropriate authority for a fresh decision in accordance

with law. In view of the long lapse of time, the reasons of which need not be gone into, the authority is directed to decide afresh the approval application of the petitioner within a period of two months of the receipt of writ of this Court. Rule is made absolute with no order as to costs.

(D.H.Waghela,J)

Jayanti*